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HOUSE BILL 50

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Ray Begaye

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE AMERICAN INDIAN  
POST-SECONDARY EDUCATION ACT; CREATING A DIVISION IN THE HIGHER  
EDUCATION DEPARTMENT; PROVIDING POWERS AND DUTIES; CREATING A  
FUND; AUTHORIZING MEMORANDA OF UNDERSTANDING BETWEEN THE  
DEPARTMENT AND TRIBAL COLLEGES AND FEDERAL BUREAU OF INDIAN  
EDUCATION SCHOOLS; EXPANDING DUAL CREDIT FOR HIGH SCHOOL AND  
POST-SECONDARY CLASSES TO FEDERAL BUREAU OF INDIAN EDUCATION  
SCHOOLS; AUTHORIZING DUAL CREDIT AGREEMENTS BETWEEN PUBLIC  
POST-SECONDARY EDUCATIONAL INSTITUTIONS, TRIBAL COLLEGES AND  
FEDERAL BUREAU OF INDIAN EDUCATION HIGH SCHOOLS; MAKING AN  
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-25-4 NMSA 1978 (being Laws 2005,  
Chapter 289, Section 4, as amended) is amended to read:

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1 "9-25-4. DEPARTMENT CREATED.--

2 A. The "higher education department" is created in  
3 the executive branch. The department is a cabinet department  
4 and includes the following divisions:

- 5 (1) the administrative services division;  
6 (2) the planning and research division;  
7 (3) the financial aid division;  
8 (4) the public information and communications  
9 division;  
10 (5) the adult basic education division;  
11 (6) the information technology division;  
12 (7) the private and proprietary schools  
13 division; [~~and~~]  
14 (8) the public schools liaison division; and  
15 (9) the American Indian post-secondary  
16 education division.

17 B. The secretary may organize the department and  
18 divisions of the department and may transfer or merge functions  
19 between divisions and bureaus in the interest of efficiency and  
20 economy."

21 Section 2. [NEW MATERIAL] SHORT TITLE.--Sections 2  
22 through 7 of this act may be cited as the "American Indian  
23 Post-Secondary Education Act".

24 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
25 American Indian Post-Secondary Education Act:

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1           A. "bureau of Indian education school" means a  
2 school located in New Mexico that is under the control of the  
3 bureau of Indian education of the United States department of  
4 the interior;

5           B. "department" means the higher education  
6 department;

7           C. "division" means the American Indian post-  
8 secondary education division of the department;

9           D. "fund" means the American Indian post-secondary  
10 education fund;

11           E. "public post-secondary educational institution"  
12 means an institution of higher education delineated in Article  
13 12, Section 11 of the constitution of New Mexico or a community  
14 college, branch community college or technical and vocational  
15 institute organized pursuant to Chapter 21, Article 13, 14 or  
16 16 NMSA 1978;

17           F. "secretary" means the secretary of higher  
18 education;

19           G. "tribal college" means a tribally, federally or  
20 congressionally chartered post-secondary educational  
21 institution located within New Mexico that is accredited by the  
22 north central association of colleges and schools; and

23           H. "tribe" means an Indian nation, tribe or pueblo  
24 located within New Mexico.

25           Section 4. [NEW MATERIAL] DEPARTMENT RULES--MEMORANDA OF  
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1 UNDERSTANDING.--

2 A. The department shall consult with tribes, bureau  
3 of Indian education schools and tribal colleges when adopting  
4 rules to carry out the provisions of the American Indian Post-  
5 Secondary Education Act.

6 B. The secretary may enter into memoranda of  
7 understanding with tribal colleges, bureau of Indian education  
8 schools and tribes for data collection and data sharing and for  
9 other matters related to implementation of the American Indian  
10 Post-Secondary Education Act.

11 Section 5. [NEW MATERIAL] AMERICAN INDIAN POST-SECONDARY  
12 EDUCATION DIVISION DUTIES.--

13 A. The division shall:

14 (1) develop and implement policies that  
15 positively affect the post-secondary educational success of  
16 American Indian students;

17 (2) provide assistance to public post-  
18 secondary educational institutions and tribal colleges in the  
19 planning, development, implementation and evaluation of  
20 recruitment and retention strategies designed for American  
21 Indian college students;

22 (3) seek funding to assist public educational  
23 institutions and tribal colleges as needed to develop support  
24 services to increase the enrollment, retention and graduation  
25 rates of American Indians at public post-secondary educational

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1 institutions and tribal colleges, including:

2 (a) academic support and transition  
3 programs; and

4 (b) institutional efforts to increase  
5 academic financial support;

6 (4) develop a system for consistent data  
7 collection and sharing on the enrollment, retention and  
8 graduation rates of American Indian students at public post-  
9 secondary educational institutions and tribal colleges;

10 (5) conduct outreach to tribes concerning  
11 financial aid opportunities for American Indian students; and

12 (6) facilitate dual credit practices and  
13 agreements and articulation agreements between public post-  
14 secondary educational institutions, tribal colleges and bureau  
15 of Indian education schools.

16 B. The director of the division shall serve as a  
17 liaison with the Indian education advisory council.

18 Section 6. [NEW MATERIAL] REPORTS.--

19 A. Each public post-secondary educational  
20 institution shall submit an annual American Indian post-  
21 secondary education status report to the division. The  
22 department may enter into agreements with tribal colleges to  
23 provide the same annual status reports. The status reports  
24 shall be submitted in a form prescribed by the division and  
25 shall include the following information through which American

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1 Indian post-secondary educational performance is measured and  
2 aligned with the higher education strategic priorities:

- 3 (1) student recruitment;
- 4 (2) student retention;
- 5 (3) student attrition;
- 6 (4) remediation needs, by course type;
- 7 (5) graduation rate and types and fields of  
8 degrees;
- 9 (6) student financial aid data, including  
10 student demographic data; and
- 11 (7) annual goals and objectives of American  
12 Indian education programs, including graduate-level  
13 participation by American Indians.

14 B. The division shall compile the data collected  
15 pursuant to Subsection A of this section and publish an annual  
16 state American Indian post-secondary education status report.

17 Section 7. [NEW MATERIAL] AMERICAN INDIAN POST-SECONDARY  
18 EDUCATION FUND CREATED--GRANTS--APPLICATIONS.--

19 A. The "American Indian post-secondary education  
20 fund" is created as a nonreverting fund in the state treasury.  
21 The fund consists of appropriations, gifts, grants, donations  
22 and income from investment of the fund. The fund shall be  
23 administered by the department, and money in the fund is  
24 appropriated to the department to carry out the purposes of the  
25 American Indian Post-Secondary Education Act. Disbursements

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1 from the fund shall be by warrant of the secretary of finance  
2 and administration pursuant to vouchers signed by the secretary  
3 of higher education or the secretary's authorized  
4 representative.

5 B. Grants may be awarded for special projects  
6 related to recruitment, retention and graduation of American  
7 Indian students, including student conferences, cultural  
8 awareness training for faculty and staff at public post-  
9 secondary educational institutions and tribal colleges,  
10 academic support and transition programs and other projects  
11 approved by the division.

12 C. Applications for grants shall be in the form  
13 prescribed by the division. The division, with the secretary's  
14 approval, shall promulgate rules on the grant application and  
15 award process, including:

- 16 (1) who may apply for grants;
- 17 (2) information required in the application  
18 process;
- 19 (3) how applications will be evaluated and  
20 awarded;
- 21 (4) accounting and financial reporting  
22 requirements for grantees;
- 23 (5) reporting requirements on the use of a  
24 grant and the outcomes of the special project funded by the  
25 grant; and

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1 (6) any other information deemed necessary by  
2 the division.

3 Section 8. Section 21-1-1.2 NMSA 1978 (being Laws 2007,  
4 Chapter 227, Section 1, as amended) is amended to read:

5 "21-1-1.2. DUAL CREDIT FOR HIGH SCHOOL AND  
6 POST-SECONDARY CLASSES.--

7 A. As used in this section:

8 (1) "bureau of Indian education high school"  
9 means a school located in New Mexico that is under the control  
10 of the bureau of Indian education of the United States  
11 department of the interior;

12 (2) "dual credit program" means a program that  
13 allows high school students to enroll in college-level courses  
14 offered by a public post-secondary educational institution or  
15 tribal college that may be academic or career-technical but not  
16 remedial or developmental, and simultaneously to earn credit  
17 toward high school graduation and a post-secondary degree or  
18 certificate; and

19 (3) "tribal college" means a tribally,  
20 federally or congressionally chartered post-secondary  
21 educational institution located within New Mexico that is  
22 accredited by the north central association of colleges and  
23 schools.

24 B. To be eligible to participate in a dual credit  
25 program, the student shall:

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1 (1) except as provided in Subsection C of this  
2 section, be enrolled in a regular public school, charter  
3 school, ~~[or]~~ state-supported school or bureau of Indian  
4 education high school in one-half or more of the minimum course  
5 requirements approved by the public education department for  
6 public school students; and

7 (2) obtain permission from a school counselor,  
8 the school principal or the head administrator of a charter  
9 school, ~~[or]~~ state-supported school or bureau of Indian  
10 education high school prior to enrolling in a dual credit  
11 course.

12 C. A student who has met the eligibility criteria  
13 provided for in Subsection B of this section in a fall or  
14 winter semester and who has not graduated or earned a general  
15 educational development certificate may take courses for dual  
16 credit during the immediately succeeding summer semester.

17 D. The school district, charter school, ~~[or]~~  
18 state-supported school or bureau of Indian education high  
19 school that the student attends shall pay the cost of the  
20 required textbooks and other course supplies for the post-  
21 secondary course the student is enrolled in through purchase  
22 arrangements with the bookstore at the public post-secondary  
23 educational institution or tribal college or through other  
24 cost-efficient methods. The student shall return the textbooks  
25 and unused course supplies to the school district, charter

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1 school, state-supported school or bureau of Indian education  
2 high school when the student completes the course or withdraws  
3 from the course.

4 E. A public post-secondary educational institution  
5 or tribal college that participates in a dual credit program  
6 shall waive all general fees for dual credit courses.

7 F. The higher education department shall revise  
8 procedures in the higher education funding formula to address  
9 enrollments in dual credit courses and to encourage  
10 institutions to waive tuition for high school students taking  
11 those courses.

12 G. The higher education department and the public  
13 education department shall adopt and promulgate rules to  
14 implement a dual credit program that specify:

15 (1) post-secondary courses that are eligible  
16 for dual credit;

17 (2) conditions that apply, including:

18 (a) the required academic standing and  
19 conduct of students enrolled in dual credit courses;

20 (b) the semesters in which dual credit  
21 courses may be taken;

22 (c) the nature of high school credit  
23 earned;

24 (d) any caps on the number of courses,  
25 location of courses and provision of transcripts; and

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1 (e) an appeals process for a student who  
2 is denied permission to enroll in a dual credit course;

3 (3) accommodations or other arrangements  
4 applicable to special education students;

5 (4) the contents of the uniform master  
6 agreement, developed in collaboration with school districts,  
7 charter schools, state-supported schools, [~~and the~~] bureau of  
8 Indian education high schools, public post-secondary  
9 educational institutions and tribal colleges, that govern the  
10 roles, responsibilities and liabilities of the school district,  
11 charter school, [~~or~~] state-supported school or bureau of Indian  
12 education high school; the institution or tribal college; and  
13 the student and the student's family;

14 (5) provisions for expanding dual credit  
15 opportunities through distance learning and other methods;

16 (6) the means by which public high schools are  
17 required to inform students and parents about opportunities to  
18 participate in dual credit programs during student advisement,  
19 academic support and formulation of annual next step plans, as  
20 well as other methods; and

21 (7) provisions for collecting and  
22 disseminating annual data, including:

23 (a) the number of students taking dual  
24 credit courses;

25 (b) the participating school districts,

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1 charter schools, state-supported schools, [~~and~~] bureau of  
2 Indian education high schools, public post-secondary  
3 educational institutions and tribal colleges;

4 (c) the courses taken and grades earned;

5 (d) the high school graduation rates for  
6 participating school districts, charter schools, [~~and~~] state-  
7 supported schools and bureau of Indian education high schools;

8 (e) the public post-secondary  
9 educational institutions and tribal colleges that participating  
10 students ultimately attend; and

11 (f) the cost of providing dual credit  
12 courses.

13 H. The higher education department and the public  
14 education department shall evaluate the dual credit program in  
15 terms of its accessibility to students statewide and its effect  
16 on:

17 (1) student achievement in secondary  
18 education;

19 (2) student enrollment and completion of  
20 higher education; and

21 (3) school districts, charter schools, state-  
22 supported schools, [~~and~~] bureau of Indian education high  
23 schools, public post-secondary educational institutions and  
24 tribal colleges.

25 I. The departments shall make an annual report,

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1 including recommendations, to the governor and the legislature.

2 J. The provisions of this section do not apply to  
3 the New Mexico military institute."

4 Section 9. APPROPRIATION.--One million dollars  
5 (\$1,000,000) is appropriated from the general fund to the  
6 higher education department for expenditure in fiscal year  
7 2010 for operational expenses related to the creation of the  
8 American Indian post-secondary education division and the  
9 development of a data collection and data-sharing system for  
10 public post-secondary educational institutions and tribal  
11 colleges. Any unexpended or unencumbered balance remaining  
12 at the end of fiscal year 2010 shall revert to the general  
13 fund.

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